

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 04/01/2022

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SET CAPITAL LLC, et al.,
Individually
and on Behalf of All Others Similarly
Situated,

Plaintiffs,

-against-

CREDIT SUISSE GROUP AG,
CREDIT SUISSE AG, CREDIT
SUISSE INTERNATIONAL,
TIDJANE THIAM, DAVID R.
MATHERS, JANUS HENDERSON
GROUP PLC, JANUS INDEX &
CALCULATION SERVICES LLC,
and JANUS DISTRIBUTORS LLC
d/b/a/ JANUS HENDERSON
DISTRIBUTORS,

Defendants.

18-cv-02268-AT-SN

**AMENDED CIVIL CASE
MANAGEMENT
PLAN AND SCHEDULING
ORDER**

SARAH NETBURN, United States Magistrate Judge:

This Civil Case Management Plan (the “Plan”) is submitted by the parties¹ in accordance with Rule 26(f)(3), Fed. R. Civ. P.

1. All parties do not consent to conducting all further proceedings before a magistrate judge, including motions and trial. 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences.
2. This case is to be tried to a jury.
3. Amended pleadings may not be filed and additional parties may not be joined except with leave of the Court. Except for good cause, any motion to amend or to join additional parties shall be filed within 30 days after the deadline for the substantial completion of document discovery.

¹ The parties for purposes of this stipulation are plaintiffs and Credit Suisse Group AG, Credit Suisse AG, Credit Suisse International, Tidjane Thiam and David R. Mathers.

4. Initial disclosures, pursuant to Rule 26(a)(1), Fed. R. Civ. P., shall be completed no later than 14 days from the date of this Order.
5. Defendants shall file their Answer(s) to the Complaint no later than July 2, 2021.
6. All motions and applications shall be governed by the Court's Individual Practices, including premotion conference requirements, except that motions in limine may be made without a pre-motion conference.
7. All fact discovery shall be completed no later than November 17, 2022.
8. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the written consent of all parties without application to the Court, provided that all fact discovery is completed by the date set forth in paragraph 7 above:
 - a. Protective order and ESI protocol to be agreed upon by the parties by June 18, 2021.
 - b. Production of all documents previously produced to the SEC or FINRA in connection with the allegations in the Complaint (*i.e.*, concerning XIV Exchange Traded Notes) shall be produced by June 30, 2021.
 - c. By September 30, 2021, the parties will meet and confer regarding the case schedule, including whether to proceed with the dates agreed to below and whether to prioritize certain areas of discovery.
 - d. Initial requests for production of documents shall be served by October 15, 2021.
 - e. Substantial completion of all data production by February 1, 2022.
 - f. Substantial completion of all document discovery by June 21, 2022.
 - g. Interrogatories shall be served by July 29, 2022.
 - h. Requests to Admit shall be served no later than July 29, 2022.
 - i. Depositions to be completed by November 17, 2022.
9. Class Certification Briefing and Expert Reports:
 - a. Class certification motion and opening expert report(s) shall be filed by July 1, 2022.
 - b. Class certification opposition brief and expert opposition report(s) shall be filed by September 15, 2022.
 - c. Class certification reply brief and expert rebuttal report(s) shall be filed by November 17, 2022.

10. Expert Discovery:

- a. The party with the burden of proof on a subject shall identify their expert(s) and the topic(s) upon which they will testify no later than January 10, 2023.
- b. Expert report(s) of the party with the burden of proof shall be filed no later than January 31, 2023.
- c. Expert opposition report(s) shall be filed no later than April 14, 2023.
- d. Expert rebuttal report(s) shall be filed no later than May 12, 2023.
- e. Expert depositions to be completed by June 16, 2023.
- f. All expert discovery shall be completed no later than June 16, 2023.

11. Summary Judgment:

- a. All motions for summary judgment shall be filed no later than August 31, 2023.
- b. Oppositions to motions for summary judgment shall be filed no later than September 29, 2023.
- c. Reply briefs in further support of summary judgment shall be filed no later than October 20, 2023.

12. All counsel must meet face-to-face or via Zoom for at least one hour to discuss settlement within fourteen (14) days following the close of fact discovery.

13.
 - a. Counsel for the parties have discussed an informal exchange of information in aid of an early settlement of this case and have agreed to pursue discussions and share information pursuant to FRE 408 and will discuss whether an early settlement of the matter is appropriate.
 - b. Counsel for the parties have discussed the use of the following alternative dispute resolution mechanisms for use in this case: (i) a settlement conference before a magistrate judge; (ii) participation in the District's Mediation Program; and/or (iii) retention of a privately retained mediator. Counsel for the parties propose the following alternative dispute resolution mechanism for this case: N/A
 - c. Counsel for the parties recommend that the alternative dispute resolution mechanism designated in paragraph b, be employed at the following point in the case (e.g. within the next sixty days; after the deposition of plaintiff is completed (specify date); after the close of fact discovery) N/A
 - d. The use of any alternative dispute resolution mechanism does not stay or modify any date in this Order.

14. The Final Pretrial Submission Date is thirty (30) days following the close of fact and expert discovery (whichever is later). By the Final Pretrial Submission Date, the parties shall submit a Joint Pretrial Order prepared in accordance with the Court's Individual Practices and Rule 26(a)(3), Fed. R. Civ. P. Any motions in limine shall be filed after the close of discovery and before the Final Pretrial Submission Date and the pre-motion conference requirement is waived for any such motion. If this action is to be tried before a jury, proposed *voir dire* questions, jury instructions and verdict form shall also be filed by the Final Pretrial Submission Date. Counsel are required to meet and confer on a joint submission of proposed jury instructions and verdict form, noting any points of disagreement in the joint submission. Jury instructions may not be submitted after the Final Pretrial Submission Date, unless they meet the standard of Rule 51(a)(2)(A), Fed. R. Civ. P. If this action is to be tried to the Court, proposed findings of fact and conclusions of law should be submitted by the Final Pretrial Submission Date.
15. Counsel for the parties have conferred and their present best estimate of the length of trial is: two weeks.

TO BE COMPLETED BY THE COURT:

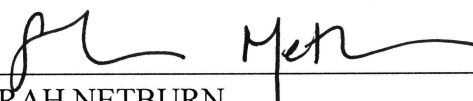
The Plan has been reviewed by the Court and, except as modified, is adopted as the Scheduling Order of this Court in accordance with Rule 16(b), Fed. R. Civ. P.

16. A status letter is due to the Court no later than July 1, 2022.
17. The parties shall reach out to Judge Torres's Chambers to schedule the next Case Management Conference.
18. The parties are directed to file a joint status report no later than one week in advance of the Case Management Conference. The parties should indicate whether they anticipate filing motion(s) for summary judgment and whether they believe the case should be referred to a Magistrate Judge for settlement discussions. The parties are reminded that, pursuant to paragraph 8, a pre-motion conference request for any motion for summary judgment must be made within fourteen (14) days of the close of fact discovery.

This ORDER may not be modified or the dates herein extended, except by further order of this Court for good cause shown. Any application to modify or extend the dates herein (except as noted in paragraph 6) shall be made in a written application in accordance with paragraph I.B. of the Court's Individual Practices and shall be made no less than five (5) days prior to the expiration of the date sought to be extended.

SO ORDERED.

Dated: April 1, 2022
New York, New York



SARAH NETBURN
United States Magistrate Judge